



# 中华人民共和国国家知识产权局

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邮政编码: 100101 北京市朝阳区北辰东路8号汇宾大厦 A0601 北京市柳沈律师事务所 邸万奎, 黄小临	发文日期
申请号: 2003801046110	
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发明创造名称: 便携式终端装置	



## 第一次审查意见通知书

(进入国家阶段的 PCT 申请)

- ☒ 应申请人提出的实审请求, 根据专利法第 35 条第 1 款的规定, 国家知识产权局对上述发明专利申请进行实质审查。  
☐ 根据专利法第 35 条第 2 款的规定, 国家知识产权局专利局决定自行对上述发明专利申请进行审查。
- ☒ 申请人要求以在:  
JP 专利局的申请日 2002 年 11 月 29 日为优先权日,  
专利局的申请日 年 月 日为优先权日,  
专利局的申请日 年 月 日为优先权日。
- ☐ 申请人于 年 月 日提交的修改文件, 不符合专利法实施细则第 51 条的规定。  
☐ 申请人提交的下列修改文件不符合专利法第 33 条的规定。  
☐ 国际初步审查报告附件的中文译文。  
☐ 依据专利合作条约第 19 条规定所提交的修改文件的中文译文。  
☐ 依据专利合作条约第 28 条或 41 条规定所提交的修改文件。  
☐
- ☒ 审查是针对原始提交的国际申请的中文译文进行的。  
☐ 审查是针对下述申请文件进行的:  
☐ 说明书 第 页, 按照原始提交的国际申请文件的中文译文;  
第 页, 按照国际初步审查报告附件的中文译文;  
第 页, 按照依据专利合作条约第 28 条或 41 条规定所提交的修改文件;  
第 页, 按照依据专利法实施细则第 51 条规定所提交的修改文件。  
☐  
☐ 权利要求 第 项, 按照原始提交的国际申请文件的中文译文;  
第 项, 按照依据专利合作条约第 19 条规定所提交的修改文件的中文译文。  
第 项, 按照国际初步审查报告附件的中文译文;  
第 项, 按照依据专利合作条约第 28 条或 41 条规定所提交的修改文件;  
第 项, 按照依据专利法实施细则第 51 条规定所提交的修改文件。  
☐  
☐ 附图 第 页, 按照原始提交的国际申请文件的中文译文;  
第 页, 按照国际初步审查报告附件的中文译文;  
第 页, 按照依据专利合作条约第 28 条或 41 条所提交的修改文件;  
第 页, 按照依据专利法实施细则第 51 条规定所提交的修改文件。



21302  
2002.8



回函请寄: 100088 北京市海淀区蓟门桥西土城路 6 号 国家知识产权局专利局受理处收  
(注: 凡寄给审查员个人的信函不具有法律效力)

## 第一次审查意见通知书正文

申请号：2003801046110

经审查，具体意见如下：

1、权利要求1请求保护一种便携式终端装置，对比文件1（W001/73569A1，第9页第7行-第28页第6行，图1-8）公开了一种便携电话机，具体特征如下：便携电话机12包括收发电路32（相当于权利要求1的网络访问单元），通过天线30、无线基站14和便携电话网16与下载服务器20建立连接并获得音乐数据，存储卡58（相当于权利要求1的数据存储单元），存储下载的音乐数据，操作面板44（相当于权利要求1的访问处理序列设置单元），根据用户的操作输入期望下载的音乐数据的预约信息（相当于权利要求1的访问设置条件），预约信息包括下载服务器20的URL、下载日期时间、音乐数据的购入条件等，时间表存储器48（相当于权利要求1的访问处理序列存储单元），存储预约信息，控制器36（相当于权利要求1的访问处理执行单元），检查计时器的时间信息，如果到达存储器36a存储的预约时刻，则进行下载处理，由此可见，对比文件1公开了权利要求1的全部技术特征，技术领域、技术问题、技术方案和预期效果相同，因此权利要求1请求保护的技术方案不具备专利法第二十二条第二款规定的新颖性。

2、权利要求2是对权利要求1的进一步限定，其附加技术特征被对比文件1（参见同上）公开，根据用户输入的预约信息，控制器36在到达预约时刻开始处理，首先确认是否有预约，如果是则进行下载处理，在其引用的权利要求1不具备新颖性的前提下，权利要求2不具备专利法第二十二条第二款规定的新颖性。

3、权利要求3是对权利要求2的进一步限定，其附加技术特征被对比文件1（参见同上）公开，控制器36检测电波状况，根据检测结果在显示装置上显示表示强度等级的字符，根据预先存储的电波强度的阈值判断是否可进行下载，在其引用的权利要求2不具备新颖性的前提下，权利要求3不具备专利法第二十二条第二款规定的新颖性。

4、权利要求4是对权利要求2的进一步限定，其附加技术特征被对比文件1（参见同上）公开，根据预约信息进行音乐数据的下载，在无法下载时更新时间信息并再度进行下载，预约时刻设成上班时间和睡眠时间可避免便携电话机无法通话的状态，在其引用的权利要求2不具备新颖性的前提下，权利要求4不具备专利法第二十二条第二款规定的新颖性。

的音乐数据传送到耳机24，在其引用的权利要求1不具备新颖性的前提下，权利要求10不具备专利法第二十二条第二款规定的新颖性。

基于上述理由，该申请由于全部权利要求不具备新颖性或创造性而不能授予专利权，说明书中也没有其它可以授予专利权的实质性内容。如果申请人不能在四个月的期限内提出具有说服力的理由，该申请将被驳回。

审查员：尹春梅

代码：9390

# The Patent office of the People's Republic Of China

Address: No.6 XITUCHENG ROAD, JIMEN BRIAGE, HAIDIAN DISTRICT, BEIJING

Post code: 100088

**LIU, SHEN & ASSOCIATES**  
A0601, HUIBIN BUILDING, NO.8, BEICHEN  
DONG STREET, CHAO YANG DISTRICT  
BEIJING 100101, CHINA

**ISSUING DATE:**

2007-1-19

Application NO.: 200380104611.0

Applicant: MATSUSHITA ELECTRIC INDUSTRIAL  
CO. LTD.

Title: MOBILE TERMINAL APPARATUS

Agent: *Wan Kvi Di*

## THE FIRST OFFICE ACTION

(PCT application for entry into the national phase)

1. ☒ The applicant filed a request for substantive examination on Year \_\_\_ Month \_\_\_ Day \_\_\_. According to Article 35 paragraph 1 of the Patent Law, the examiner has conducted a substantive examination to the above-mentioned patent application.

☐ According to Article 35 paragraph 2 of the Patent Law, Chinese Patent Office decided, on its own initiative, to conduct a substantive examination to the above-mentioned patent application.

2. ☒ The applicant requested to take

Year 02 Month 11 Day 29, on which an application is filed with the JP patent office, as the priority date,  
Year \_\_\_ Month \_\_\_ Day \_\_\_, on which an application is filed with the \_\_\_ patent office, as the priority date,  
Year \_\_\_ Month \_\_\_ Day \_\_\_, on which an application is filed with the \_\_\_ patent office, as the priority date.

3. ☐ The amended document(s) submitted by the applicant is/are not accepted because the said amendment(s) is/are not in conformity with the provision of Article 33 of the Chinese Patent Law.

☐ The Chinese translation of the annexes of the International Preliminary Examination Report.

☐ The Chinese translation of the amendments submitted under Article 19 of PCT.

☐ The amendment(s) submitted under Article 28 or Article 41 of PCT.

☐ The amendment(s) submitted under Rule 51 of The Implementing Regulations of the Patent Law

The concrete reason(s) for not accepting the amendment(S) is/are presented on the text of this Office Action.

4. ☒ The examination has been conducted on the initially filed Chinese translation of the text of the application.

☐ The examination has been conducted on the following text(s) :

☐ Specification, page(s) \_\_\_\_\_, as originally filed

page(s) \_\_\_\_\_, as the annexes of the International Preliminary Examination Report

page(s) \_\_\_\_\_, as the amendment(s) submitted under Article 28 or 41 of PCT

page(s) \_\_\_\_\_, as the amendment(s) submitted under Rule 51 of The Implementing

Regulations of the Patent Law

☐ Claim, \_\_\_\_\_, as originally filed

\_\_\_\_\_, as the Chinese translation of the amendment(s) submitted under Article 19 of PCT

\_\_\_\_\_, as the annexes of the International Preliminary Examination Report

\_\_\_\_\_, as the amendment(s) under Article 28 or 41 of PCT

\_\_\_\_\_, as the amendment(s) under Rule 51 of The Implementing Regulations of the Patent

Law

☐ Figure, \_\_\_\_\_, as originally filed

\_\_\_\_\_, as the annexes of the International Preliminary Examination Report

\_\_\_\_\_, as the amendment(s) under Article 28 or 41 of PCT

\_\_\_\_\_, as the amendments under Rule 51 of The Implementing Regulations of the Patent Law

5. ☒ The following reference document(s) is/are cited by this notification: (the reference numeral(s) thereof will be used in the examination procedure hereafter)

NO.	Reference No. and Title	Publishing Date (or the filing date of rivals)
1	<i>W001/73569A1</i>	Year <i>01</i> month <i>10</i> day <i>4</i>
2		Year month day
3		Year month day
4		Year month day

6. Concluding comments

☐ on the specification:

☐ The specification is not in conformity with the provision of Rule 18 of the Implementing Regulations of the Patent Law.

☐ The figures is not in conformity with the provision of Rule 19 paragraph 3 of the Implementing Regulations of the Patent Law.

☐ The specification is not in conformity with the provision of Article 26 paragraph 3 of the Patent Law.

☐ The contents of the application are in contrary to Article 5 of the Patent Law and therefore are not patentable

☒ on the claims:

☐ Claim(s) \_\_\_\_\_ belong(s) to non-patentable subject matter as prescribed in Article 25 of the Patent Law

☒ Claim(s) 1-5, 7-10 do(es) not possess novelty as requested by Article 22 paragraph 2 of the Patent Law.

☒ Claim(s) 6 do(es) not possess inventiveness as requested by Article 22 paragraph 3 of the Patent Law.

☐ Claim(s) \_\_\_\_\_ do(es) not possess the practical applicability as requested by Article 22 paragraph 4 of the Patent Law.

☐ Claim(s) \_\_\_\_\_ do(es) not comply with the provision of Article 26 paragraph 4 of the Patent Law.

☐ Claim(s) \_\_\_\_\_ do(es) not comply with the provision of Article 31 paragraph 1 of the Patent Law.

☐ Claim(s) \_\_\_\_\_ do(es) not comply with provision of Rule 20 of the Implementing Regulations.

☐ Claim(s) \_\_\_\_\_ do(es) not comply with provision of Rule 21 of the Implementing Regulations.

☐ Claim(s) \_\_\_\_\_ do(es) not comply with provision of Rule 22 of the Implementing Regulations.

☐ Claim(s) \_\_\_\_\_ do(es) not comply with provision of Rule 23 of the Implementing Regulations.

☐ Claim(s) \_\_\_\_\_ do(es) not comply with the provision of Article 9 of the Patent Law.

☐ Claim(s) \_\_\_\_\_ do(es) not comply with the provision of Rule 12 paragraph 1 of the Implementing Regulations of the Patent Law.

The detailed analysis for the above concluding comments is/are presented on the text of this Office Action.

7. Based on the above concluding comments, the examiner is of the opinions that:

☐ The applicant should amend the application document(s) in accordance with the requirement as specified in the Office Action.

☐ The applicant should, in his observation, expound the patentability of the application, amend the defects pointed out in the Office Action; or the application can hardly be approved.

☒ The examiner deems that the application lacks substantive features to make it patentable. Therefore, the application will be rejected if no convincing reasons are provided to prove its patentability.

8. The applicant should pay attention to the following matters:

(1) According to Article 37 of the Patent Law, the applicant is required to submit his observations within **four** months upon receipt of this Office Action. If the time limit for making response is not met without any justified reason, the application shall be deemed to have been withdrawn.

(2) The amendment(s) made by the applicant must meet the provision of Article 33 of the Patent Law. The amended text should be in duplicate, its format should conform to the related confinement in the Guidance for Examination.

(3) **The observation and the amended document(s) must be mailed or delivered to the Receiving Section of the Chinese Patent Office. No legal effect shall apply for any document(s) that not mailed to or reached the Receiving Section.**

(4) Without being invited, the applicant and/or the agent should not go to the Chinese Patent Office to interview an examiner.

9. The text of this Office Action contains 3 page(s), and has the following attachment(s):

☒ 1 copies of the cited references, total 53 pages.

Examination Section No. \_\_\_\_\_ Examiner \_\_\_\_\_ Seal of Examination Dept. .For business only (if the Office Action wasn't stamped by the specified seal, it has no legal effect)

## TEXT OF THE FIRST OFFICE ACTION

Application No.: 2003801046110

After examination, the detailed opinions are as follows:

1. Claim 1 seeks protection for a portable terminal apparatus. Reference 1 (WO01/73569A1, line 7 of page 9 to line 6 of page 28, figures 1 to 8) discloses a portable telephone, with the following detailed features: the cellular phone 12 includes a transceiver circuit 32 (equivalent to the network access unit in claim 1) which is connected to a download server 20 through an antenna 30, a radio base station 14 and a cellular phone network 16 and obtains music data, a memory card 58 (equivalent to the data storage unit in claim 1) which stores the downloaded music data, an operation panel 44 (equivalent to the accessing process sequence setting unit in claim 1) which inputs the reservation information of music data desired to be downloaded (equivalent to the access setting condition in claim 1) according to the user's operation, said reservation information including a URL for the download server 20, day and time of executing the download and a purchase condition of the music data etc., a schedule memory 48 (equivalent to the accessing process sequence storage unit in claim 1) which stores reservation information, a controller 36 (equivalent to the accessing process executing unit in claim 1) which detects time information applied from the timer, and executes a process for download at the time stored in the memory 36a. Thus it can be seen that Reference 1 has disclosed all the technical features, technical field, technical problem, technical solutions and expected effect of claim 1. Therefore, the technical solution sought for protection in claim 1 does not possess novelty as prescribed in Article 22, clause 2 of the Patent Law of China.

2. Claim 2 further defines claim 1, and its additional technical features have already been disclosed in Reference 1 (refer to the above): according to the reservation information that is input by the user, the controller 36 starts a process at the reservation time; firstly, it ensures whether there is reservation; if there is, then it executes a process for download. When claim 1 to which claim 2 refers does not possess novelty, said claim does not possess novelty as prescribed in Article 22, clause 2 of the Patent Law of China either.

3. Claim 3 further defines claim 2, and its additional technical features have already been disclosed in Reference 1 (refer to the above): the controller 36 detects wave condition and displays a character indicative of an intensity level on the basis of the detected result, and determines whether download can be executed according to a threshold value of the intensity of the pre-stored radio wave. When claim 2 to which claim 3 refers does not possess novelty, said claim does not possess novelty as prescribed in Article 22, clause 2 of the Patent Law of China either.

4. Claim 4 further defines claim 2, and its additional technical features have already been disclosed in Reference 1 (refer to the above): executing download of music data according to reservation information; updating time information when download can not be executed and re-executing download; setting reservation time an office hour and bedtime hour so that it is possible to avoid a situation that a telephonic speech cannot be performed. When claim 2 to which claim 4 refers does not possess novelty, said claim does not possess novelty as prescribed in Article 22, clause 2 of the Patent Law of China either.

5. Claim 5 further defines claim 2, and its additional technical features have already been disclosed in Reference 1 (refer to the above): the controller 36 detects wave condition and determines whether download can be executed according to a threshold value of the intensity of the pre-stored radio wave; if it can not be executed, then the controller searches for another radio base station being strong in the intensity. When claim 2 to which claim 5 refers does not possess novelty, said claim does not possess novelty as prescribed in Article 22, clause 2 of the Patent Law of China either.

6. Claim 6 further defines claim 2. Reference 1 (refer to the above) discloses: according to the reservation information that is input by the user, the controller 36 starts a process at the reservation time. Claim 6 differs from Reference 1 in the accessing process sequence setting unit sets a process sequence during interruption in the case that the own apparatus accepts an interrupt request. For those skilled in the art, it is commonly used technical means that as to suspending acquiring data to process interruption or ignoring interruption to continue to acquire data, it is pre-set according to actual need when the portable terminal apparatus receives an interruption request in the data acquiring process. Therefore, it is obvious for those skilled in the art to obtain the technical solution in claim 6 based on Reference 1 by combining the commonly used technical means in the relevant field. The technical solution sought for protection in claim 6 does not possess any prominent substantive feature or represent a notable progress, and thus does not possess inventive step as prescribed in Article 22, clause 3 of the Patent Law of China.

7. Claim 7 further defines claim 2, and its additional technical features have already been disclosed in Reference 1 (refer to the above): the controller 36 calls the download server 20 when the download process is started; if the traffic is jammed, it is determined it is impossible to perform the download and displays the warning message on the display 40 and updates the reservation time. When claim 2 to which claim 7 refers does not possess novelty, said claim does not possess novelty as prescribed in Article 22, clause 2 of the Patent Law of China either.

8. Claim 8 further defines claim 2, and its additional technical features have already been disclosed in Reference 1 (refer to the above): the controller 36 communicates with the controller 70 in the memory card 58 so as to check whether or not the vacant

capacity of the license memory 76 is sufficient; if it isn't, the outdated music data is deleted. When claim 2 to which claim 8 refers does not possess novelty, said claim does not possess novelty as prescribed in Article 22, clause 2 of the Patent Law of China either.

9. Claim 9 further defines claim 1, and its additional technical features have already been disclosed in Reference 1 (refer to the above): the cellular phone further includes a reproducer circuit 46 (equivalent to the retrieving unit in claim 9) which acquires the music data stored on the memory card 58 through the bus 34. When claim 1 to which claim 9 refers does not possess novelty, said claim does not possess novelty as prescribed in Article 22, clause 2 of the Patent Law of China either.

10. Claim 10 further defines claim 1, and its additional technical features have already been disclosed in Reference 1 (refer to the above): the music data is played in a headphone 24 via the setting by the operation panel 44; the cellular phone further includes a reproducer circuit 46 (equivalent to the data transferring unit in claim 10) which transfers the music data stored on the memory card 58 to the headphone 24 through the bus 34. When claim 1 to which claim 10 refers does not possess novelty, said claim does not possess novelty as prescribed in Article 22, clause 2 of the Patent Law of China either.

Based on the above reasons, all claims of the present application possesses neither novelty nor inventive step, and thus can not be granted a patent right. The specification does not disclose any substantive content that can be granted a patent right. If the applicant can not come up with persuasive reasons within four-month time limit, the present application will be rejected.

Examiner: Chunmei Yi

LCC